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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,669	08/07/2006	Rainer Kaltschmidt	P06,0226	9966
26574	7590	04/24/2008		
SCHIEF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473			EXAMINER ROZANSKI, MICHAEL T	
			ART UNIT	PAPER NUMBER
			3768	
			MAIL DATE	DELIVERY MODE
			04/24/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/588,669

**Applicant(s)**

KALTSCHMIDT ET AL.

**Examiner**

MICHAEL ROZANSKI

**Art Unit**

3768

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 4/14/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claim 5 is objected to because of the following informalities: It appears that the term "edits" should be changed to "emits". A period should be placed at the end of the claim, as well. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Klotz et al (US 6,461,039).

Klotz et al disclose a system for non-invasive medical treatment including a base 7 and a therapy c-arm 14, 16 supported by the base for orbital movement relative to the base and defining an isocenter. A therapy apparatus 2 emits therapeutic energy directed to a focus. It is noted that since energy level of the therapy apparatus is not defined, then the x-ray source 2 is sufficient to be considered a therapeutic source. A carrier arm 12 ((note that this element is referred to as a 'c-arm' by Klotz et al; however, element 12 corresponds with the claimed carrier arm while element 14 corresponds in structure to the claimed

Art Unit: 3768

therapy c-arm)) has a fixed end mounted to the therapy c-arm at joint 13, which moves together with the c-arm (see figure 4A). The therapy apparatus 2 is attached to a free end of the carrier arm, while a detector 3 is attached to the other free end of the carrier arm. The carrier arm 12 is mounted to the c-arm for rotation around a rotation axis (see  $z_2/z_4$  rotatable  $360^\circ$ ) relative to the therapy c-arm and independently of the orbital movement (see figure 4A). This allows the carrier arm 12, when positioned at the end as shown in figure 4A, to extend beyond the respective end of the therapy c-arm so as to also extend the therapy apparatus beyond the respective end (see figure 4A).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klotz et al as applied to claims 5 and 7 in view of Goldhorn et al (US 5,044,354).

Klotz et al disclose an x-ray c-arm as a therapeutic non-invasive treatment, but do not disclose a lithotripsy head as the therapy c-arm in addition to the x-ray c-arm. However, Goldhorn et al teach of a system with both x-ray imaging components (col 12, lines 47-68) and a lithotripsy head 11 for focusing shockwaves, wherein the focus for x-rays and shockwaves is focus F (see figure

Art Unit: 3768

9). It would have been obvious to the skilled artisan to modify Klotz et al, as taught by Goldhorn et al, because the elements of Goldhorn et al when applied to the configuration of Klotz et al would yield predictive results.

### ***Response to Arguments***

Applicant's arguments with respect to claims 5-9 have been considered but are moot in view of the new ground(s) of rejection. This action is made Non-Final.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL ROZANSKI whose telephone number is (571)272-1648. The examiner can normally be reached on Monday - Friday, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric F Winakur/  
Primary Examiner, Art Unit 3768

MR